

HEPWORTH, GERSHBAUM & ROTH, PLLC
192 Lexington Avenue, Suite 802
New York, New York 10016
Telephone: (212) 545-1199
Fax: (212) 532-3801

FIRM PROFILE

Hepworth, Gershbaum & Roth, PLLC, is a civil litigation firm dedicated to representing plaintiffs in class action lawsuits with an emphasis in bringing class and collective actions on behalf of the wage earner against companies who violate the Federal Labor Standards Act and/or State Labor Laws. In addition to prosecuting unfair labor practices, Hepworth, Gershbaum & Roth, PLLC, is actively handling cases including violations of the Americans with Disabilities Act and racial discrimination/wrongful termination cases.

The firm was formed by experienced litigators, each partner having successfully litigated numerous cases, and handling complex litigation resulting in settlements totaling tens of millions of dollars. The attorneys of Hepworth, Gershbaum & Roth, PLLC, are actively sought by other attorneys to assist as co-counsel to prosecute cases within the State of New York.

Our attorneys have lectured at continuing legal education courses and have published articles on civil litigation subjects. The attorneys at Hepworth, Gershbaum & Roth, PLLC, continue to actively lobby for consumer rights and injured victims' rights to ensure that a person's right to a safe environment is upheld and continues to be protected under the law.

WAGE AND HOUR LITIGATION

Hepworth, Gershbaum & Roth, PLLC, is dedicated to fighting for employees' rights in cases involving unfair employment practices, overtime wage violations, misclassification of employees, and the other benefits to which employees are entitled under the Federal Fair Labor Standards Act (FLSA) and State Labor Laws. The firm enjoys a strong reputation for representing employees in many areas of employment law.

Hepworth, Gershbaum & Roth, PLLC, offers our clients over 70 years of combined litigation experience in both state and federal courts. The firm has a substantial class action and collective action litigation practice. We are currently lead counsel and/or co-counsel in cases against Fortune 500 companies as well as against smaller employers.

The firm has been involved in complex Wage and Hour cases, involving extensive litigation, including Multi-District Litigation and has resolved numerous cases involving wage and hour class actions. These include but are not limited to the following cases: *Youngblood v. Family Dollar*, 1:09-cv-03176 (S.D.N.Y.) (co-counsel in a misclassification store manager case, wherein the Rule 23 case was certified and settled for 14 million); *Hegab v. Family Dollar Stores, Inc.*, 1:11-cv-01206 (D.N.J.) (co-lead counsel on a wage and hour misclassification matter settled for \$1,150,000); *Fermin v. Rite Aid of New York, Inc.*, 1:08-cv-11364 (S.D.N.Y.) (co-lead counsel on a wage and hour misclassification matter, settled as part of the *Craig v. Rite Aid*, 4:08-cv-02317(S.D.N.Y.) for (\$20,900,000.00); *Ibea v. Rite Aid Corporation*, 1:11-cv-5260 (S.D.N.Y.) (co-counsel on a misclassification case certified under FLSA 216(b) as a collective action, settled as part of *Craig v. Rite Aid*, 4:08-cv-02317(S.D.N.Y.)); *Cunningham v. EDS*, 1:06-cv-5260 (S.D.N.Y.) (Co-lead counsel on a misclassification case certified under FLSA 216(b) as a collective action and settled for \$11,800,000.00); *Lapan v. Dicks Sporting Goods, Inc.*, 1:13-cv-11390 (DCMA) Co-lead counsel on a misclassification case certified under FLSA 216(b) as a collective action and Rule 23 Class Action settled for \$10,000,000.00); *Costello, et. al. v. Kohl's Illinois Inc. et. al.*, 1:13-cv-1359 (S.D.N.Y.) (Lead counsel on a wage and hour misclassification case certified under FLSA 216(b) as a collective action and settled for \$4,000,000.00); *McKee v. Petsmart, Inc.*, 1:12-cv-01117 (D. Del.)(co-lead counsel on a wage and hour misclassification, certified under FLSA 216(b) as a collective action; and settled for \$3,800,000.00); *Fischer, et. Al. v. Kmart Corp.*, 3:13-cv-04116 (DCNJ)(Co-lead counsel on a misclassification case certified under FLSA 216(b) as a collective action and Rule 23 Class Action settled \$3,814,000.00); *Burns v. The TJX Companies, Inc.*, (D. Mass.) (co-lead counsel on a wage and hour collective and class action, with a part of the case having settled for \$4,750,000.00); *Martinez De Rodriguez, v. All Care Home Health Services, LLC*, No. 509728/2016, (NY. Sup. Ct. Kings County June 23, 2020)(settled for

\$2,400,000); *Cambridge v. Sheetz, Inc.*, No. 1:17-CV-1649(DCNJ) (M.D. Pa. June 26, 2019)(certified under FLSA 216(b) as a collective action; and settled for \$1,800,000) *Maar v. Beall's Inc.*, 2:16-cv-14121 (S.D. FL) (co-lead counsel on a wage and hour misclassification case Action settled \$1,200,000.00); *Gervasio et.al. v. Wawa, Inc.* No. 3:17-CV-00245 (lead counsel on a wage and hour misclassification case certified under FLSA 216(b) as a collective action and settled for \$1,400,000) *Ferreira v. Modell's Sporting Goods, Inc.*, et al., 1:11-cv-02395 (S.D.N.Y.) (co-lead counsel on a wage and hour misclassification case certified under FLSA 216(b) as a collective action, settled); *Charles v. Nationwide Mutual Insurance Company, Inc.*, 1:09-cv-0094 (E.D.N.Y) (co-lead counsel on a wage and hour "off the clock" claim, settled); *Morales, et al., v. Sovereign Bank*, Case No.: 13 160 02098 11 (co-lead counsel on a wage and hour misclassification case settled for \$1,450,000.00 via mandatory arbitration); "*Doe's*" v. "*Smith*" Corporation, (a confidential seven figure settlement for five African Americans subjected to employment discrimination on the basis of their race); *Ogaian v. Bed Bath and Beyond, Inc., et al.*, 12-cv-01273 (S.D.N.Y.)(co-lead counsel on a wage and hour misclassification matter, settled); *Dickerson-Muhammed v. West Customer Management Group, LLC.*, Index No. 21322/2008 (Sup. Ct. County of Queens) (co-lead counsel on a wage and hour case resolved under a confidentiality agreement); *Caballero v. Zaloumis Contracting Service, et al.*, 1:11-cv-01121 (S.D.N.Y.) (co-lead counsel on a wage and hour matter resolved); *Bedoya, et. al. v. Level 42 Associates, LLC et al.*, 14-cv-01333 (S.D.N.Y.)(counsel on a wage and hour collective and class action, settled) *Broussard Jr., et al. v. Stein Mart, Inc.*, No. 16-cv-3247 (lead counsel on a wage and hour misclassification case, settled); *Hallen v. Belk, Inc.*, 4:16-cv-00055 (E.D.Texas.)(co-lead counsel on a wage and hour misclassification case, Collective action settled for \$2,900,000.00); *Pulver v. Cafua Management Company, LLC*, et. al., 1:15-cv-08022 (S.D.N.Y.)(lead counsel on a wage and hour misclassification case, Collective action settled)

Other matters wherein our firm is lead or co-counsel include: *Qazi, et al. v. Stage Stores, Inc. d/b/a Peebles* No. 4:17-cv-00780(S.D. Texas) (co-lead counsel on a wage and hour misclassification case); *Garcia v Mini Mart, Inc, d/b/a Loaf 'N Jug, and EG (Retail) America, LLC*, 19-cv-01322 (USDC Col.) (Off the clock wage claim);(lead counsel on a wage and hour misclassification case); *Horton v Love's Travel Stop and Country Stores, Inc.*, 1:19-cv-01193 (USDC NC)(Co-Lead Counsel on an Equal Pay Act case); *Ludwig et al v. Speedway LLC* 2:20-

cv-00824 (E.D. Pa.) (Lead Counsel on an Equal Pay Act case); *Brown v Barnes and Noble Inc.*, 16-cv-7333(RA) (USDC SDNY); *Prulello, et. al., v. Francesca's Holdings Corp. et al.*, Case No. 1:17-cv-00565(DCNJ) (co-lead counsel on a wage and hour misclassification case); *Cox et al. v. Francesca's Holdings Corp. et al.*, 4:19-cv-02167(S.D. Tex.) (co-lead counsel on a wage and hour misclassification case); *Smith et al v. Grandvision USA, etal* 1:20-cv-03541 (N.D. Ill.)(co-lead counsel on a wage and hour misclassification case); *Vasser et al v. Mapco Express Inc.* 3:20-cv-00665 (M.D. Tenn) (lead counsel on a off the clock wage claim); *McColley, et al. v. Casey's General Stores, Inc. et al* 2:18-cv-00072 (N.D. Ind.) (co-lead counsel on a wage and hour misclassification case); and *Miles et al. v. Cefco et al.* 7:20-cv-00143 ((W.D. Tex.)(lead counsel on a wage and hour misclassification case) and many others.

ATTORNEY PROFILES

Marc S. Hepworth

Marc S. Hepworth is a founding partner in Hepworth, Gershbaum & Roth, PLLC, a firm dedicated to protecting the rights of the individual against corporate defendants. Mr. Hepworth specializes in collective and class actions as well as representing plaintiffs who have suffered catastrophic injuries through the wrongful conduct of others. He has successfully litigated and recovered millions of dollars for the clients he represented and has been the attorney for thousands of plaintiffs fighting against corporations throughout the United States. Mr. Hepworth is Lead Counsel or Co-Counsel in numerous class actions presently before this Court. Prior to forming Hepworth Gershbaum & Roth, PLLC, Mr. Hepworth was of counsel to Roth & Roth, LLP, and acted as a solo practitioner. He has been active in lobbying for consumer rights to ensure that the laws are not changed to hurt those who need it most. In addition, Mr. Hepworth has been published on numerous occasions.

Mr. Hepworth graduated from Binghamton University in 1993 and received his law degree from Benjamin N. Cardozo School of Law in 1998. He is admitted to practice in New York State Courts as well as the Eastern and Southern District Courts of New York. Mr. Hepworth is a member of the following Professional Associations and Organizations: New York State Trial Lawyers Association, American Association of Justice, National Employment Lawyers Association, National Employment Lawyers Association/New York, National Association of Consumer Advocates, Association of the Bar of the City of New York City, Workers Injury Law & Advocacy Group and the Federal Bar Council.

Mr. Hepworth lectured on numerous occasions including but not limited to on behalf of the Ohio Association of Justice on the topic of “Preparing For and Taking a 30b(6) Deposition in an FLSA case.” In Park City, Utah; Wage and Hour webinars and in person seminars for Strafford Publications on topics ranging from Asserting and Challenging Affirmative Defenses to presentation of Damages.

Mr. Hepworth has also been acknowledged by his colleagues in numerous forums as he has been selected to Superlawyers since 2014 in Employment Law as well as selected as a Top 100 Trial Lawyer by the National Trial Lawyers,

Charles Gershbaum

Charles Gershbaum is a founding partner in Hepworth, Gershbaum & Roth, PLLC, a firm dedicated to protecting the rights of the individual against corporate defendants. Mr. Gershbaum has been a civil litigator for over twenty years. The first decade of practice was spent in court on a daily basis, fighting for individual rights and litigating cases from inception through trial and appeal. Mr. Gershbaum has represented thousands of plaintiffs fighting against corporations and/or some of the largest insurance companies and municipalities in New York, obtaining justice either through settlement or verdict in both state and federal venues. After the first decade of practice, Mr. Gershbaum was a founding partner in the firm Gershbaum and Weisz, PC, located in Manhattan. The firm represented plaintiffs exclusively.

Mr. Gershbaum is proud to be an active member of the New York State Trial Lawyers as well as a trial lawyer committee member, who has dedicated his time to preserving the rights of the individual against large defendants and/or municipalities as well as lobbying for consumer rights. In addition, Mr. Gershbaum has been published on numerous occasions and has appeared in both the Jury Verdict Reporter, the New York Law Journal as well as been profiled in the Kyodo News based in Tokyo, Japan.

Mr. Gershbaum graduated from Yeshiva College in 1987 and received his law degree from the Benjamin N. Cardozo School of Law in 1990 having been a member and editor of the Cardozo ILSA Journal of International Law.

Mr. Gershbaum is a member of the following Associations and Organizations: New York State Trial Lawyers Association, American Association of Justice, American Bar Association and the New York State Bar Association. Mr. Gershbaum has been and still is selected by his peers as a Superlawyer.

David A. Roth

David A. Roth is a founding partner in Hepworth, Gershbaum & Roth, PLLC, a firm dedicated to protecting the rights of the individual against corporate defendants. Since 1991, Mr. Roth has been representing plaintiffs who have had been injured, had their civil rights deprived or have duly earned wages and benefits which were denied them by their employers. Mr. Roth has represented thousands of plaintiffs in actions against corporations, insurance companies, and

municipalities. He has prosecuted and tried numerous civil cases in the courts in and around the City of New York at the state, appellate and federal venues. As a respected trial attorney, Mr. Roth is constantly sought out as co-counsel and trial counsel by fellow attorneys both in and out of the State of New York. Additionally, Mr. Roth has been admitted including but not limited to California, Pennsylvania, New Jersey, Texas, Florida, Illinois, Delaware, Massachusetts, and Virginia to try cases in those venues.

Mr. Roth is a feature lecturer and has lectured on many different aspects of civil litigation and has been published several times in the New York State Trial Lawyers' semi-annual publication, on such topics as: several articles regarding municipal liability such as Municipal Liability, taking Corporate Depositions, Complicated products issues regarding Bus Interlock's as well as issues independent medical examinations of concerning traumatic brain injury cases.

Mr. Roth graduated from the State University of Buffalo in 1988 and received his law degree from Albany Law School in 1991. Mr. Roth is a member of the American Association for Justice as well as the New York State Trial Lawyers Association. Mr. Roth has been an officer in the New York State Trial Lawyers Association (NYSTLA) for more than ten years currently holding the position of Treasurer First Vice President. NYSTLA is the largest State plaintiff's trial bar in Country. He has been an active Dean of the New York State Trial Lawyers Institute (NYSTLI), the Continuing Legal Education arm of NYSTLA, which was voted the number one Continuing Legal Education provider in New York State law Journal poll for many years. He also serves on both the Executive Committee and Board of Directors for the New York State Trial Lawyers Association where he is active in setting policy and lobbying for victim's rights and serves on several committees.

He is the chair of the Municipal Liability Committee, the Website Committee and a member of various other committees. Mr. Roth was selected by his peers as a Super Lawyer for each year since 2013. In association with his committee chairs Mr. Roth is active in lobbying efforts as well as the drafting and reviewing new legislation for NY wage and hour law.

Mr. Roth has been involved continuing legal education since 2013 and has been part of guiding and creating continuing legal education programs for both plaintiffs and defendants in the New York City area. David Roth has lectured in numerous areas including Trial tactics for the New York State Trial Lawyers Association; General litigation for the Queens Bar Association; Technology in the Courtroom, for the New Jersey Association for Justice; Municipal Transit

liability for both the New York State Trial Lawyers Association and New Jersey Association for Justice; created and chaired the two day CLE program known as the Subway Series, a program for the New York State Trial Lawyers Association regarding the complexities and nuances of litigating against Transportation Authorities which has been held approximately every two years since 2010. Additionally, Mr. Roth has created and chaired the full day municipal liability program, the "Plaintiff's Arsenal" which also is presented approximately every two years since 2013. Mr. Roth has also lectured multiple times in the "Evidence to Win" program, one of the largest programs run by New York State Trial Lawyers Institute (NYSTLI). David Roth has additionally lectured for the NYSTLI "Decisions 2015" program which collectively has hundreds of attendees and is the premier continuing Legal education program run by NYSTLI covering all the most recent developments in case law for the previous year. Mr. Roth has also lectured in the "Evidence to Win" program most recently in 2019, one of the largest programs run by NYSTLI as well as the "Decisions" seminar, which collectively, has hundreds of attendees and is the premier continuing legal education program run by NYSTLI. Mr. Roth has also lectured for the American Association of Justice at their national convention on the topic of municipal liability for transportation systems in Baltimore in 2014. On June 27, 2019 David Roth lectured to the Court Attorneys Association of the City of New York regarding Ethics in and out of the Courtroom. Mr. Roth additionally has lectured for the American Association of Justice at their national convention on the topic of municipal liability for transportation systems in Baltimore, 2014. Mr. Roth has also created a cutting-edge program regarding the Freedom of Information Law which is held every few years and has also lectured regarding FOIL to the Southern District of New York Bar Association. David Roth was honored to be the 2019 NYSTLA nominee for the American Bar Association's Thurgood Marshall Award, which was awarded to and accepted by the late John Lewis. Lastly during the Covid pandemic David Roth has been the Officer who runs the Covid-19 web forum keeping lawyers informed about updates, court status and executive orders that affect all lawyers practices and lives which is a daily commitment.